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NATURAL RESOURCE MANAGEMENT GUIDE FOR DELAWARE



PREPARED BY THE
DELAWARE AND MARYLAND
FARMERS HOME ADMINISTRATION
STATE OFFICE
CAMDEN, DELAWARE

**United States
Department of
Agriculture**

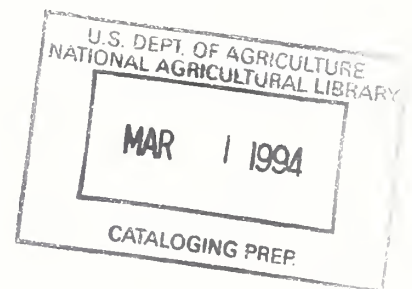


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DELAWARE NATURAL RESOURCE MANAGEMENT GUIDE

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INTRODUCTION AND PURPOSE

Farmers Home Administration (FmHA) USDA has issued its environmental program requirements in their Instruction 1940-G, which became effective March 31, 1984. Under this instruction all FmHA project actions require an environmental document that shows compliance with the National Environmental Policy Act, 42 U.S.C. 4321 and some sixteen other acts and executive orders that are listed in 1940.301 (c) of the instruction.

As a part of this same instruction the State Director of Farmers Home Administration in Delaware has developed this Natural Resource Management Guide, which will serve as a mechanism for assembling an inventory of the locations within the State of those natural resources, land uses and environmental factors that have been specified by Federal, State and local authorities as deserving some degree of protection or special consideration.

This guide summarizes the various standards or types of Federal, State or local protection that apply to the natural resources, land uses and environmental factors listed in this inventory. The contents of the guide, particularly the inventory, shall be considered by the State Director in decisions relating to the use of available program resources. Applications for individual projects will be reviewed for consistency with the Guide.

The Natural Resource Management Guide is not intended to result in a plan or be a plan. It is intended to be an explicit framework of major environmental standards and review requirements that have been promulgated at the Federal level as well as those that are particular to the State. It provides listing of natural opportunities and constraints for various land use activities against which proposals for development can be evaluated. Finally, it serves as a useful planning tool for prospective applicants.

NATURAL RESOURCE MANAGEMENT POLICIES AND GUIDELINES

I. Environmental Requirements. Following is a quotation of FmHA General and Special Policy as contained in FmHA Instruction 1940-G, "Environmental Program."

A. General Policy.

1. FmHA shall consider environmental quality as equal with economic, social, and other relevant factors in program development and decision making processes.

2. In assessing the potential environmental impacts of its actions, FmHA shall consult early with appropriate Federal, State and local agencies and other organizations to provide decision makers with both the technical and human aspects of environmental planning.

3. When adverse environmental impacts are identified, either direct or indirect, an examination shall be made of alternative courses of action including their potential environmental impacts. The objective of the environmental review shall be to develop a feasible alternative with the least adverse environmental impact. The alternative of not proceeding with the proposal shall also be considered particularly with respect to the need for the proposal.

4. If no feasible alternative exists, including the no-action alternative, measures to mitigate the identified adverse environmental impacts shall be included in the proposal.

5. The performance of environmental reviews and the consideration of alternatives shall occur as early as possible in the FmHA decision making process so that the Agency will be in the most flexible and objective position to deal with these considerations.

B. Special Policy.

1. Important Land Resources.

a. FmHA recognizes that its specific mission of assisting rural areas, composed of farms and rural towns, goes hand-in-hand with protecting the environmental resources upon which these systems are dependent. Basic resources necessary to both farm and rural settlements include important farmlands and forestlands, prime rangelands, wetlands, and floodplains. The definitions of these areas are contained in the Appendix to the Departmental Regulation 9500-3, "Land Use Policy." Given the importance of these resources, as emphasized in the Departmental Regulation, Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands," it is FmHA's policy not to approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that (i) there is no practicable alternative to the proposed action, (ii) the proposal conforms to the planning criteria identified in Paragraph 1.b. of this section and (iii) the proposal includes all practicable measures for reducing the conversion/encroachment.

b. It is also recognized that unless carefully reviewed, some proposals designed to serve the needs of rural communities can adversely affect the existing economic base and settlement patterns of the community as well as create development pressures on land and environmental resources essential to farm economics. An example of such a proposal might be the extension of utilities and other types of infrastructure beyond a community's existing settlement pattern and into important farmlands for the purpose of commercial or residential expansion, even though there is available space within the existing settlement pattern for such expansion. Not only may the loss of important farmlands unnecessarily result, but the community may be faced with the economic costs of providing public services to outlying areas, as well as the deterioration of its central business or commercial area; the latter may not be able to compete with the newer, outlying commercial establishments. These results are undesirable, and to avoid their occurrence, projects designed to meet rural community needs (i.e., residential, industrial, commercial, and public facilities) will not be approved unless the following conditions are met:

(1) The project is planned and sited in a manner consistent with the policies of this section, the Farmland Protection Policy Act, and Departmental Regulation 9500-3.

(2) The project is not inconsistent with an existing comprehensive and enforceable plan that guides growth and reflects a realistic strategy for protecting natural resources, and the project is compatible to the extent practicable, with State, unit of local government, and private programs and policies to protect farmland.

(3) The project will encourage long-term economically viable public investment by fostering or promoting development patterns that ensure compact community development, that is, development that is limited to serving existing settlement patterns or is located in existing settlement patterns, e.g. the rehabilitation and renovation of existing structures, systems and neighborhoods; infilling of development; the provision of a range of moderate-to-high residential densities appropriate to local and regional needs. When these development patterns or types are not practicable, the development must be contiguous with the existing settlement pattern and provide for a range of moderate-to-high residential densities appropriate to local and regional needs. It is recognized that some FmHA Community Programs' projects are designed to serve rural residents, such as rural water and waste disposal systems and, therefore, cannot be limited in service area to those areas contiguous with existing structures and rural residents in noncontiguous areas. Any additional capacity within the system will be limited to meet reasonable growth needs and, to the extent practicable, be designed to meet such needs within existing settlements and areas contiguous to them.

c. The conditions specified in paragraph 1.b. of this section should not be construed as advocating excessive densities, congestion, or loss of open space amenities within rural communities. Desirable living conditions can be obtained under these objectives along with economic and social benefits for the community and the surrounding farm operations. Additionally, these conditions should not be construed as requiring localities to develop plans which contain the conditions or to so amend existing plans to incorporate the conditions. In any instance in which these planning conditions or criteria do not exist within the project area, project reviews will not be postponed until the criteria are adopted. Rather, projects shall be reviewed and funding decisions made in light of a project's consistency with the contents of this Guide (excluding Item (ii) of paragraph 1.a. of this section, which would not be applicable.)

II. Environmental Resources. The following is a partial listing of land uses, cultural resources and environmental considerations, in the State of Delaware, that will deserve some form of protection, conservation or other level of consideration. These considerations will be addressed before FmHA continues with any project action that has been submitted for their participation.

A. Resource - HISTORIC PRESERVATION.

1. Level of Protection.

a. Federal. At the earliest stages of consideration of an application, FmHA shall identify any properties that are listed in, or may be eligible for listing in the National Register of Historic Places and are located within the project's area of potential environmental impacts. Consultation will be undertaken with the State Historic Preservation Officer and the Advisory Council on Historic Preservation, in order to determine the most appropriate course of action for protecting such identified properties or mitigating potential adverse impacts to them.

b. State. At the earliest stages of consideration of an application, consultation will be undertaken with the State Historic Preservation Officer to identify Historical, Archaeological or Cultural resources.

2. Agency Jurisdiction.

a. Federal. U.S.D.A., Farmers Home Administration; U.S. Department of Interior; Advisory Council on Historic Preservation.

b. State. State Historic Preservation Office, 15The Green, , Court Street, Dover, Delaware 19901, (302) 739-5685.

3. Location of Resource. National Register of Historic Places; State Surveys, maintained by the State Historic Preservation Officer.

B. Resource - WILD AND SCENIC RIVERS.

1. Level of Protection. FmHA shall not participate in any proposal or project that is likely to have any adverse effect on any listed Wild or Scenic river.

2. Agency Jurisdiction.

a. Federal. The Department of Interior.

b. State. Department of Natural Resources and Environmental Control, Division of Parks and Recreation, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4702.

3. Location of Resource. The Department of Interior maintains lists and maps of designated rivers and the State of Delaware; Department of Natural Resources and Environmental Control maintains similar listings for those rivers identified by the State.

C. Resource - IMPORTANT FARMLAND, FOREST LAND AND HORTICULTURAL LAND.

1. Level of Protection.

a. Federal. Farmlands, forest lands and horticultural land are unique natural resources providing food, fiber, wood, and water necessary for the continued welfare of the people who reside or visit here. FmHA will not approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that (1) there is no practicable alternative to the proposed action, (2) the proposal conforms to the planning criteria identified in FmHA Instruction 1940-G, "Environmental Program," and (3) the proposal includes all practicable measures for reducing the conversion/encroachment.

b. State. The Delaware Code Title 3, Chapter 9, Subsections 900 through 906 (Agricultural Preservation Act of 1981) establishes the state policy regarding public agencies use of lands best suited for agriculture.

2. Agency Jurisdiction.

a. Federal. United States Department of Agriculture, Departmental Regulation 9500-3, Land Use Policy and Farmland Protection Policy Act, Public Law 97-98.

b. State. The program is administered by the Secretary of the Delaware Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901, (302) 739-4811.

3. Location of Resource.

a. Federal. Soil Conservation Service has prepared maps for 3 Delaware counties. Additional information concerning important farmland may be obtained from the local S.C.S. offices and local planning agencies.

D. Resource - WETLANDS.

1. Level of Protection.

a. Federal. Executive Order 11990, Protection of Wetlands, is the basis for FmHA determinations regarding the effect of agency actions when wetlands are affected. FmHA will not approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that (1) there is no practicable alternative to the proposed action, (2) the proposal conforms to the planning criteria identified in FmHA Instruction 1940-G, "Environmental Program," and (3) the proposal includes all practicable measures for reducing the conversion/encroachment.

b. State. Delaware Code, Title 7, Chapter 66.

2. Agency Jurisdiction.

a. Federal. The United States Department of Interior, Fish and Wildlife Service. The U.S. Army Corps of Engineers issues permits when navigable waters are involved, under section 10 for dredging and Section 404 for filling.

b. State. Department of Natural Resources and Environmental Control, Division of Environmental Control, Wetlands and Aquatic Branch, P.O. Box 1401, 89 Kings Highway, Dover, Delaware 19903 (302) 736-4691.

3. Location of Resource.

a. Federal. U.S. Department of the Interior (USDOI) Fish and Wildlife Service, Field Office, 1825 Virginia Street, Annapolis, Maryland 21401, (301) 269-5448, maintains a Wetland Inventory.

b. State. Photo maps are available at the Department of Natural Resources and Environmental Control and in the County Planning Offices. Additional wetland information may be obtained from the local U.S. Soil Conservation Office.

E. Resource - FLOOD PLAINS.

1. Level of Protection.

a. Federal. Executive Order 11988, Flood Plain Management, will be the basis for FmHA determinations regarding the effect of agency actions when flood plains are impacted. FmHA will not approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that (1) there is no practicable alternative to the proposed action, (2) the proposal conforms to the planning criteria identified in FmHA Instruction 1940-G, "Environmental Program," and (3) the proposal includes all practicable measures for reducing the conversion/encroachment.

b. State. Delaware Code Title 29, Chapter 80 and Title 7, Chapter 39.

2. Agency Jurisdiction.

a. Federal. Water Resources Council has issued Flood Plain Management Guidelines for implementing Executive Order 11988. 43 FR 6030, 2/10/78.

b. State. Department of Natural Resources and Environmental Control, Division of Soil and Water Conservation, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4411.

3. Location of Resource.

a. Federal. The Federal Emergency Management Agency (FEMA), 105 South 7th Street, Second Floor, Liberty Square Building, Philadelphia, Pennsylvania 19106, (215) 931-5500, publishes Flood Insurance Rate maps and Flood Insurance Studies for most areas of Delaware. Additional information may also be obtained from the Corps of Engineers and the Soil Conservation Service.

b. State. Maps are available in various scales at the Department of Natural Resources and Environmental Control and at the County Conservation Offices.

F. Resource - ENDANGERED SPECIES AND CRITICAL HABITATS.

1. Level of Protection.

a. Federal. FmHA shall not authorize, fund, or carry out any proposal or project that is likely to (1) jeopardize the continued existence of any plant or wildlife species listed by the Secretary of the Interior or Commerce as endangered or threatened; or (2) destroy or adversely modify the habitats of listed species when such habitats have been determined critical to the species' existence by the Secretary of Interior or Commerce unless FmHA has been granted an exemption for such proposal by the Endangered Species Committee pursuant to subsection (h) of Section 7 of the Endangered Species Act.

b. State. Endangered Species, Delaware Code Title 7, Chapter 6, Critical Habitats, Delaware Code Title 7, Chapter 73.

2. Agency Jurisdiction.

a. Federal. Confer with either Area Manager, Fish and Wildlife Service or Regional Director, or National Marine Fisheries Service, as appropriate.

b. State.

(1) Delaware Department of Natural Resources and Environmental Control, Division of Fish and Wildlife, 89 Kings Highway, Dover, Delaware 19903, (302) 739-5297.

(2) Department of Natural Resources and Environmental Control, Non-Game Wildlife and Environmental Control, c/o Division of Fish and Wildlife, P.O. Box 1401, 89 Kings Highway, Dover, Delaware 19903, (302) 739-4782.

3. Location of Resource.

a. Federal. F.W.S. Regional Office, 1 Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. National Marine Fisheries Service, Regional Office, One Blackburn Drive, Gloucester, Massachusetts 01930, FTS 829-9316, (508) 281-9300. Maintains national listings, 50 CFR 17.11 and 17.12.

b. Delaware lists are maintained by the Division of Fish and Wildlife and by the Technical Services Section of the Division of Parks and Recreation.

G. Resource - SOLE SOURCE AQUIFER.

None have been identified in the State of Delaware.

H. Resource - AIR QUALITY.

1. Level of Protection.

Federal and State. The legal authority for efforts to improve air quality and to lessen human exposure to polluted air stems principally from the Clean Air Act of 1970 as amended. Under the Act,

States are required to achieve the primary air quality standards set by the Environmental Protection Agency within specified time limits. The States must institute air pollution regulations which at least satisfy minimum federal standards, such as prohibiting development which will cause air quality to deteriorate below the standards, and mandating clean-up measures where violations are registered. Each State is required to prepare and submit a State Implementation Plan (SIP) which describes how the State will meet the primary and secondary national ambient air quality standards, and generally provides for implementation, maintenance and enforcement of the standards. Consideration of air quality impacts is often a difficult and highly technical undertaking, involving different standards for different types of emissions and development. For purposes of the environmental assessment, the task can begin with a set of simple questions. Are the project users particularly sensitive to existing or air pollution levels? Will the project generate sizeable traffic? Does the project require an installation permit, operating permit or indirect source permit? Is the project located in the vicinity of a monitoring station where air quality violations have been registered? The first and second questions focus on site suitability for human occupancy. The other issues are addressed usually in finding that the project is in compliance with the SIP.

b. State. Delaware Code Title 7, Chapter 60 establishes responsibility for air quality management with the Division of Environmental Control.

2. Agency Jurisdiction.

Federal and State. Department of Natural Resources and Environmental Control, Division of Environmental Control, Air Resource Section, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4791.

3. Location of Resource.

Federal and State air quality data maintained at the above section.

I. Resource - NATURAL LANDMARKS AND PARKS.

1. Level of Protection.

Federal. It is FmHA policy not to participate in any project that would have any adverse impact on a National Landmark or Park that has been designated by the Department of the Interior.

2. Agency Jurisdiction.

Federal. Department of Interior, National Park Service, Mid-Atlantic Region, Regional Director, 143 South 3rd Street, Philadelphia, Pennsylvania 19106, (215) 597-7013.

3. Location of Resource.

a. Federal. Department of Interior, National Registry of Natural Landmarks. Last published in the Federal Register, March 1, 1983. Guide and map to National Parks, G.P.O. 1984.

b. State. Information is also available from the Delaware Division of Parks and Recreation, (302) 739-5284.

J. Resource - COASTAL BARRIER RESOURCES.

1. Level of Protection.

a. Federal. The Coastal Barrier Resources Act (Public Law 97-348) prohibits new Federal expenditures and financial assistance on a "Coastal Barrier Resources System" that has been established and identified.

b. State. Delaware Code Title 7, Chapter 68 (Management of Beaches) establishes additional protection.

2. Agency Jurisdiction.

a. Federal. The U.S. Department of Interior.

b. State. Delaware Department of Natural Resources and Environmental Control. Division of Soil and Water Conservation, Beach Preservation Section, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4411.

3. Location of Resource.

a. Federal. The U.S. Department of Interior has identified the "Coastal Barrier Resource System" in the State of Delaware on two maps;

(1) Broadkill Beach Complex H00, dated September 30, 1982.

(2) North Bethany Beach Unit H01, dated September 30, 1982.

b. Additional information can be obtained from the above Beach Preservation Section of the State of Delaware.

K. Resource - WATER QUALITY (water supply, wastewater, "208 Plans").

1. Level of Protection.

Federal and State. There are many laws and regulations governing this factor. Private utilities supplying water for domestic use are regulated by the Delaware Division of Public Utilities Control, which controls service areas, rates, extensions and other matters. At the federal level, there is the Clean Water Act of 1977 and the Safe Drinking Water Act (PL-92-500).

The Federal Government also issues discharge permits, National Pollution Discharge Elimination Systems (NPDES), to local sewage treatment agencies into waters under federal control. Compliance with 208 Wastewater Plans is required. Local building, plumbing and health codes may be observed.

The principal federal laws affecting water supply are the Federal Water Pollution Act and the Safe Drinking Water Act. The Federal Water Pollution Act provides for two types of standards.

The principal law related to wastewater in the Federal Water Pollution Control Act Amendments of 1972 as amended in 1977 (33 U.S.C. 1251-1376) and EPA implementing regulations (33-CFR, Part 320-325 and Part 4230). EPA issues National Pollutant Discharge Elimination System (NPDES) permits limiting the place, kind, and amount of discharge of pollutants that will be allowed.

The Clean Water Act (1977), Section 208 requires States and localities to develop areawide comprehensive plans for improving water quality in an area or State. Approval by local government should constitute verification that the proposed projects conform to the goals of the 208 plans.

2. Agency Jurisdiction.

Federal and State. Delaware has been delegated by the U.S. Environmental Protection Agency to administer the Water Quality Programs in the state through the Department of Natural Resources and Environmental Control, Division of Environmental Control, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4791.

3. Location of Resource.

Federal and State. Additional information can be obtained from the Delaware Geological Survey, Garvey Building, University of Delaware, Newark, Delaware 19716-7501, (302) 831-2833.

L. Environmental Concern - NOISE.

1. Level of Protection.

Federal and State. It is the policy of FmHA not to participate in projects which will either be affected adversely by existing noise pollution or which will produce a level of noise pollution that will create an adverse effect.

2. Agency Jurisdiction.

a. Federal. The National Environmental Policy Act, 42 U.S.C. 4321.

b. State. Delaware Code, Title 7, Chapter 71, gives the Air Resources Section responsibility for noise pollution control in Delaware.

3. Location of Resource.

a. Federal. U.S. Department of Housing and Urban Development Noise Assessment Guidelines, H.U.D. - P.D.R. - 735 (1) March, 1984. Individual Airport "Air Installation Compatible Use Zone Studies" are available for certain airports.

b. State. Delaware Department of Natural Resources and Environmental Control, Division of Environmental Control, Air Resources Section, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4791.

M. Resource - DELAWARE COASTAL ZONE MANAGEMENT (ENTIRE STATE).

1. Level of Protection.

Federal and State. FmHA will not participate in any action that does not preserve and protect Delaware's coastal resources. Their general policy will be to conform with the goals and objectives of the Delaware Coastal Zone Management Program and the Executive Orders of the State of Delaware.

2. Agency Jurisdiction and Location of Resource.

Federal and State. The Delaware Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4403 administers this program and maintains area boundary maps. The Delaware Coastal Zone Management Program is published, dated 1979.

N. Resource - INLAND BAYS AREA PROGRAM.

1. Level of Protection.

State. FmHA participation in any project will consider compliance with the policies, strategies and initiatives formed by the Delaware Inland Bays Task Force. The Task Force recommendations are currently being implemented by the Department of Natural Resources and Environmental Control; the Department of Health and Social Services, Division of Public Health and Sussex County under the guidance of the Inland Bays Monitoring Committee.

2. Agency Jurisdiction.

Delaware Department of Natural Resources and Environmental Control, Division of Environmental Control, Projects and Planning Section, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4403.

O. ADDITIONAL RESOURCES AND ENVIRONMENTAL CONCERNS IN THE STATE OF DELAWARE. FmHA will not participate in any action that may lead to an adverse effect involving the following resources and concerns of the State of Delaware.

1. Abandoned Railroad Right-of-Ways.

The State Railroad Administration, Delaware Transportation Authority, 100 South French Street, Wilmington, Delaware 19801, maintains a project by project file.

2. State Department of Transportation Right-of-Ways.

Division of Highways, Real Estate Section, Administration Building, P.O. Box 778, Dover, Delaware 19903, (302) 736-4323, maintains right-of-way boundary maps, project by project.

3. Natural Areas Preservation System.

Delaware Code Title 7, Chapter 73, administered by the Delaware Department of Natural Resources and Environmental Control, Division of Parks and Recreation, Technical Services Section, P.O. Box 1401, 89 Kings Highway, Dover, Delaware 19903, (302) 739-5284, maintains a list of maps.

4. Hazardous Wastes.

Delaware Code Title 7, Chapter 63, managed by the Department of Natural Resources and Environmental Control, Solid Waste Section, P.O. Box 1401, 89 Kings Highway, Dover, Delaware 19903, (302) 739-3820, maintains location and management of sites.

5. Sand and Gravel and Mineral Resource Areas.

Maintained by the Delaware Geological Survey Building, University of Delaware, Newark, Delaware 19716-7501, (302) 451-2833. Maintains maps of resource areas.

6. Underwater Lands.

Delaware Code Title 7, Chapter 62, Department of Natural Resources and Environmental Control, Division of Environmental Control, Wetlands and Aquatic Branch, 89 Kings Highway, Dover, Delaware 19901, (302) 739-4691, maintains location maps.

P. ADDITIONAL REFERENCE.

1. The State of Delaware Statewide Telephone Directory is available at Telephone Services, 1138 South DuPont Highway, Dover, Delaware 19903, at a cost of \$5.00 each.

2. The Delaware State Clearing House is located in the Office of Budget, Thomas Collins Building, 3rd Floor, P.O. Box 1401, 540 South DuPont Highway, Dover, DE 19903, (302) 739-4204. The clearing house provides for a single point of contact for review of projects subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

3. County Planning Offices also are a good source of maps and information on many of the subject discussed in this guide.



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